

Message Text

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PAGE 01 STATE 075339

53

ORIGIN L-03

INFO OCT-01 EA-11 ADP-00 PM-09 NSC-10 SS-15 RSC-01 H-02

CIAE-00 DODE-00 INR-10 NSAE-00 PA-03 USIA-12 PRS-01

OMB-01 TRSE-00 RSR-01 /080 R

66603

DRAFTED BY: L/ EA: OTJOHNSON

APPROVED BY: L/ EA: EGVERVILLE

EA/ K: WKRIEBEL

DOD: WSOLF

L/ PM: JMICHEL

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R 210040 Z APR 73

FM SECSTATE WASHDC

TO AMEMBASSY SEOUL

INFO CINCPAC

CINCUSARPAC

C O N F I D E N T I A L STATE 075339

E. O. 11652: GDS

TAGS: MARR, KS

SUBJECT: NEW ROK CONSTITUTION AND SOFA

REF: SEOUL 1807

1. WE BELIEVE IT MIGHT BE POSSIBLE TO OBTAIN ROK AGREEMENT TO AN UNDERSTANDING, AS SET FORTH BELOW, WHICH DOES NOT LEAVE OPEN QUESTION OF JURISDICTION PENDING AGREEMENT BY ROK AND US REPRESENTATIVES AS TO EFFECT OF AN INVOCATION OF ARTICLES 53 AND/ OR 24 OF ROK CONSTITUTION.

2. WE PROPOSE FOLLOWING MODIFICATION BEGINNING WITH SECOND SENTENCE PARA 2 OF ROK PROPOSAL:

" UPON THE MUTUAL AGREEMENT OF ROK AND US REPRESENTATIVES THAT THE RIGHTS OF US

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PAGE 02 STATE 075339

PERSONNEL AS GUARANTEED BY SOFA CANNOT
BE MET UNDER THE DECREES INVOLVED
UNDER ARTICLES 53 OR 24, THE PROVISIONS
OF ARTICLE XXII SHALL BE SUSPENDED.
IN ORDER THAT THE RIGHTS OF US PERSONNEL
UNDER ARTICLE XXII OF THE SOFA NOT BE
PREJUDICED PENDING THE DETERMINATION
OF THE ABOVE MATTER THE ROK WILL REFRAIN
FROM EXERCISING JURISDICTION UNDER

ARTICLE XXII DURING THIS PERIOD. IN
EITHER CIRCUMSTANCE THE US MAY EXERCISE
EXCLUSIVE JURISDICTION OVER MEMBERS OF
THE US ARMED FORCES, CIVILIAN COMPONENT
AND THEIR DEPENDENTS."

3. EMBASSY PROPOSAL ALSO SEEMS REASONABLE APPROACH IF IT
IS CLEAR TO ROK'S THAT WE NOT COMPROMISING OUR POSITION,
AND WE MAY WISH TO USE THIS LATER AS FALLBACK. HOWEVER,
WE CONSIDER IT HIGHLY PREFERABLE NOT TO HAVE QUESTION OF
JURISDICTION IN INTERIM PERIOD UNRESOLVED, IF THIS
POSSIBLE. THEREFORE REQUEST EMBASSY SEEK ROK AGREEMENT
TO PROPOSAL PARA 2 ABOVE. PORTER

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*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

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